

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MARK D. SITTER

Plaintiff,

v.

Case No. 16-C-692

CAROLYN W. COLVIN,

**Acting Commissioner of the Social Security Administration
Defendant.**

ORDER

Plaintiff Mark D. Sitter seeks judicial review of a decision from the Commissioner of the Social Security Administration denying his claim for disability insurance benefits. 42 U.S.C. § 405(g). Pursuant to 28 U.S.C. § 1914(a), a plaintiff must pay a filing fee to bring an action in federal court, but plaintiff requests leave to proceed in forma pauperis. Under 28 U.S.C. § 1915(a)(1), an indigent party may commence a federal court action, without paying required costs and fees, upon submission of an affidavit stating “that the person is unable to pay such fees or give security therefor.” The affidavit must also state “the nature of the action, defense or appeal and affiant’s belief that the person is entitled to redress.” Id.

Plaintiff has submitted an affidavit averring that he is unable to pay the fees and that he is entitled to the relief sought in the complaint. On review of the complaint, I am unable to determine that the action is frivolous or that the complaint fails to state a claim. However, the affidavit fails to establish indigence. Plaintiff reports personal monthly income of \$2851 from workers’ compensation benefits and spousal monthly income of \$2280 from employment, exceeding reported total monthly expenses of \$5000. They have no dependents. Plaintiff

further reports owning a residence, worth \$290,000;¹ two motor vehicles, worth \$200 and \$2200; cash/checking/savings account in the amount of \$500; and a 401k valued at \$500,000. Plaintiff lists real estate taxes of \$6780 but does not elaborate on the status, e.g., past due, being paid in installments, etc. Perhaps plaintiff's financial condition is more distressed than it appears from the affidavit, but I cannot on this record find him unable to pay required fees.

THEREFORE, IT IS ORDERED that plaintiff's motion for leave to proceed in forma pauperis (R. 2) is **DENIED**. Plaintiff shall, on or before **June 27, 2016**, either pay the required filing fee or submit a motion for reconsideration explaining more fully his inability to do so. Failure to do either may result in dismissal of this action.

Dated at Milwaukee, Wisconsin this 13th day of June, 2016.

/s Lynn Adelman
LYNN ADELMAN
District Judge

¹Plaintiff reported no monthly mortgage payment, so it appears he owns the home outright.